

date of the discontinuance shall be determined by § 21.4135. The effective date for decisions of the facility or of Central Office will be determined as follows:

(1) In all instances when, on the date a decision is reached by a facility or Central Office, no payments are being made to persons enrolled in the school because the Director of the facility has suspended the payments as provided by § 21.4134, and the decision results in the discontinuance of educational assistance to veterans and eligible persons, the effective date of the decision will be the date the Director first suspended payments unless the decision specifically provides for a later date.

(2) When the effective date of a facility or Central Office decision is not determined by paragraph (e)(1) of this section it shall be:

(i) The date the Director of the facility of jurisdiction approves the unanimous decision of the Committee on Educational Allowances, if no review by Central Office is required;

(ii) The date the Director of the facility of jurisdiction originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and approved;

(iii) The date the Director of the facility of jurisdiction originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and the facility's decision is reversed by a Central Office decision; or

(iv) The date of receipt by the facility of the decision of Central Office rendered pursuant to paragraph (c) of this section. See § 21.4208.

(Authority: 38 U.S.C. 3690)

(f) *Reapproval of enrollments.* Educational assistance allowance which was finally discontinued by reason of the provisions of this section will not be resumed without prior approval at

the level of authority where the final decision was made.

[31 FR 6774, May 6, 1966, as amended at 42 FR 14735, Mar. 16, 1977; 45 FR 31063, May 12, 1980; 48 FR 37988, Aug. 22, 1983; 49 FR 5115, Feb. 10, 1984; 51 FR 16317, May 2, 1986; 61 FR 20728, May 8, 1996]

EFFECTIVE DATE NOTE: At 63 FR 35831, July 1, 1998, § 21.4207 was removed, effective July 31, 1998.

§ 21.4208 Central Office Education and Training Review Panel.

(a) *Purpose.* The panel will receive evidence and hear the testimony of witnesses and the arguments of interested parties regarding matters considered by the facility Committee on Educational Allowances and make recommendations to the Director, Vocational Rehabilitation and Education Service, on matters which are before him or her for final administrative determination under § 21.4201, § 21.4202 or § 21.4207.

(Authority: 38 U.S.C. 3672)

(b) *Composition of panel.* (1) The Director, Vocational Rehabilitation and Education Service shall appoint from among the employees of the Department of Veterans Affairs:

- (i) A chairperson of the panel, and
- (ii) Five persons to serve as members of the panel.

(2) Each time a school seeks a review of a decision under the provisions of § 21.4207(d), the chairperson shall choose two persons from the five appointed under paragraph (b)(1) of this section. The chairperson and these two persons shall carry out the functions of the panel as stated in paragraph (a) of this section.

(Authority: 38 U.S.C. 3690)

(c) *Disposition of matters reviewed by the panel.* The concurrence of the Director with the recommendation of the panel will constitute the final administrative decision of the Department of Veterans Affairs. If the Director does not concur with the recommendation

Department of Veterans Affairs

§ 21.4209

of the panel, the final decision will be made by the Chief Benefits Director.

[31 FR 6774, May 6, 1966, as amended at 37 FR 10442, May 23, 1972; 43 FR 35300, Aug. 9, 1978; 48 FR 37988, Aug. 22, 1983; 49 FR 20493, May 15, 1984]

EFFECTIVE DATE NOTE: At 63 FR 35831, July 1, 1998, § 21.4208 was removed, effective July 31, 1998.

§ 21.4209 Examination of records.

(a) *Availability of records.* Notwithstanding any other provision of law, educational institutions must make the following records and accounts available to authorized Government representatives:

(1) Records and accounts pertaining to veterans or eligible persons who received educational assistance under Chapter 1606 of Title 10 U.S.C. or Chapters 30, 32, 34, 35 or 36 of Title 38 U.S.C.

(2) Other students' records necessary for the Department of Veterans Affairs to ascertain institutional compliance with the requirements of these chapters.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3244, 3690)

(b) *Type of records.* Each school will upon request of duly authorized representatives of the Government make available for examination all appropriate records and accounts, including but not limited to:

(1) Records and accounts which are evidence of tuition and fees charged to and received from or on behalf of all veterans and eligible persons and from other students similarly circumstanced.

(2) Records of previous education or training of veterans and eligible persons at the time of admission as students and records of advance credit, if any, granted by the school at the time of admission.

(3) Records of the veteran's or eligible person's grades and progress.

(4) Records of all advertising, sales or enrollment materials as required by § 21.4252(h) and section 3696(b), title 38 U.S.C.

(5) Records and computations showing compliance with the requirements of § 21.4201 regarding the 85-15 percent ratio of students for each course.

(6) Records necessary to demonstrate compliance with the requirements of § 21.4252(e) pertaining to the time necessary to complete a correspondence course.

(7) Records necessary to demonstrate compliance with the requirements of § 21.4252(g) pertaining to employment of graduates of the course.

(c) *Noncollege degree, apprentice, and other on-the-job.* The school having veterans, servicemembers, reservists, and/or eligible persons enrolled in a course that does not lead to a standard college degree will make available, in addition to the records and accounts required in paragraph (b) of this section, the records of leave, absences, class cuts, makeup work, and tardiness. Each training establishment that has enrolled veterans under 38 U.S.C. chapter 30 or 32, reservists under 10 U.S.C. chapter 1606, or eligible persons under 38 U.S.C. chapter 35 will also make available payroll records.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3034, 3241, 3690(c))

(d) *Nonaccredited courses.* The school having veterans or eligible persons enrolled in nonaccredited courses will make available, in addition to the records and accounts required in paragraphs (b) and (c) of this section the following:

(1) Records of interruptions for unsatisfactory conduct or attendance.

(2) Records of refunds of tuition, fees and other charges made to a veteran or eligible person who fails to enter the course or withdraws or is discontinued prior to completion of the course.

(e) *Nonavailability.* Failure to make such records available as provided in this section will be grounds for discontinuing the payment of educational assistance allowance or special training allowance.

(f) *Retention of records.* The records and accounts, including those pertaining to students not receiving benefits from the Department of Veterans Affairs, as described in this section, pertaining to each period of enrollment of a veteran or eligible person, will be kept intact and in good condition at the school for at least 3 years following